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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,753	06/15/2001	Benoit Labrique	Q64521	5931

7590 08/18/2004  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3213

EXAMINER
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LERNER, MARTIN

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/880,753	LABRIQUE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Martin Lerner	2654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 to 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 to 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because of the following informalities:

Figures 1 to 3 need English language labels changing "Figur" to – Figure – and "Beispiel" to – Example —.

Figure 3 should have labels for components, and labels should correspond to elements disclosed by the Specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheets should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

The Specification should be amended to include section headings as conventional under patent practice in the United States. Section headings should include "Background of the Invention", "Summary of the Invention", "Brief Description of the Drawings", and "Detailed Description of the Preferred Embodiments".

On page 1, lines 2 to 4, and on page 1, lines 24 to 26, references to claim numbers should be deleted. The subject matter of final claim numbering may not reflect the subject matter of current claim numbering, so references to claim numbers may be inaccurate.

On page 2, lines 28 to 29, and on page 3, lines 24 to 25, advice to translators does not seem proper for a patent specification, and should be deleted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 to 3 are rejected under 35 U.S.C. 102(b) as being anticipated by *Innis et al.*

Regarding independent claims 1 to 3, *Innis et al.* discloses a process, module, and program for outputting a spoken announcement, comprising:

“a program control segment, a first program segment and a plurality of second program segments” – data processing system 11 provides a telephone response mechanism (“a program control segment”) (column 3, lines 9 to 18: Figure 1); the first portion (“a first program segment”) is automatically provided by the data processing system, based on the time of day (column 3, lines 28 to 36: Figure 1); the second portion identifies the user, and the third portion is automatically drawn from a database on the data processing system 11 (column 3, lines 37 to 57: Figure 1); the second and third portions correspond to “a plurality of second program segments”;

“that the program control segment is designed to control the access to data access means and speech output means and to control the calling of the first program segment and of a program segment from the plurality of second program segments” – the method checks the time of day, and retrieves the time of day message, which is either “good morning”, “good afternoon” or some other time of day greeting; the method checks the specified database such as the user’s calendar for information on the user’s current agenda and retrieves the information to provide a third portion of the message; the time of day is utilized to create the third portion (column 4, lines 31 to 45: Figure 2: Steps 59 and 65); the user makes calendar entries into a calendar database for a particular day (column 3, lines 58 to 65); a time of day and calendar database

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correspond to “data access means”; data processing system 11 retrieves a third portion of a message from a plurality of alternatives depending upon the time of day (“calling of a program segment . . . from the plurality of second program segments”) (column 4, line 46 to column 5, line 20);

“that the first program segment is designed such that it can be used for the selection of an announcement type and of a second program segment, assigned to this announcement type, from the plurality of second program segments” – in the morning, the first portion (“the first program segment”) would be “Good morning”; in the afternoon, the first portion would be “Good afternoon” (column 3, lines 28 to 36); “Good morning” and “Good afternoon” are “an announcement type”; “second program segments” are also determined by the time of day; “second program segments” are selected from “I am in a meeting that will end at 10:00 am” if the a call is made at 9:30 am, “I am at lunch. I will be back at 1:00” if a call is made at 12:30 pm, and “This is John Doe. I am not currently available” if a call is made at 2:30 pm (column 4, line 35 to column 5, line 20: Figure 2: Step 65);

“and that each of the second program segments is designed such that it forms a current spoken announcement with the assistance of the required parameters which are determined by means of the program control segment and the data access means from the at least one data record” – the time of day is used to determine which entry from the calendar is utilized; if the time of day is 9:30 am, then the entry from 9-10 am for a meeting with boss, room 256, is utilized to create the third portion; if the time of day is 12:30 pm, then the entry from 12-1 pm for lunch is utilized to create the third portion; if

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the time of day is 2:30 pm, then the entry from 2-3 pm for new product meeting, room 211, is utilized to create the third portion (column 3, lines 58 to 65; column 4, lines 35 to 45); thus, "the required parameters" are determined by data processing system 11 ("the program control segment") from the calendar database ("at least one data record") and time of day to form "second program segments" of "a current spoken announcement";

"and that it causes this spoken announcement to be output by means of the program control segment and the speech output means" – the first, second and third portions are all merged together in the respective order, and the merged message portions are played to the caller (column 4, lines 46 to 50: Figure 2: Steps 67 and 69).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Innis et al.* in view of *Kelley*.

*Innis et al.* does not expressly disclose editing means by means of which existing announcement types can be changed, erased, or new announcement types associated with second program segments generated, and input/output means for communication with the editing means. Presumably, *Innis et al.* must provide an ability for a designer to record and play voice messages when a telephone response mechanism is initiated, but

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editing means are not discussed. However, *Kelley* teaches a similar voice mail system, where complex phrases are generated, e.g. "You have <n> new [message/messages]," where <n> is the number of new messages, and the word "message" is used when <n> = 1, but the word "messages" is used when <n> does not equal to 1. Specifically, *Kelley* provides software for supporting the development of voice messages for new languages, to add or modify the language of the system. (Column 1, Line 51 to Column 2, Line 33) A graphic user interface (GUI) 50 ("input means and output means") provides a phrase book developer with an entry point from which to design phrase books. (Column 4, Lines 51 to 67: Figures 1 and 2) It is suggested an advantage is to support a new language without requiring reprogramming or modification of core software by separating software containing logic to "speak" different phrases from the rest of the voice application software. (Column 2, Lines 59 to 65) It would have been obvious to one having ordinary skill in the art to provide an editing means and input/output means as suggested by *Kelley* in the method and system of updating a telephone response mechanism of *Innis et al.* for the purpose of providing a developer with support for developing voice messages for new languages without requiring reprogramming or modification of core software.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure.

Tarkiainen et al. and Logan et al. disclose related art.



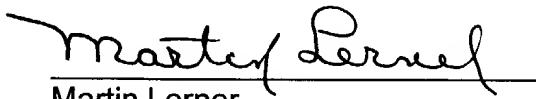
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (703) 308-9064. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML  
8/12/04

  
Martin Lerner  
Examiner  
Group Art Unit 2654